

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 6817 of 2005(J)

PETITIONER:

**N.K.CHANDRABOSE, S/O. KUNJU,
DRIVER, AGED 36 YEARS, RESIDING AT NIKARTHIL,
C.M.C.VII OF CHERTHALA MUNICIPALITY,
CHERTHALA TALUK.**

BY ADV. SRI.T.JAYAKRISHNAN

RESPONDENTS:

- 1. THE ASSISTANT REGISTRAR (GENERAL) OF
CO-OPERATIVE SOCIETIES, OFFICE OF THE
ASSISTANT REGISTRAR, CHERTHALA.**
- 2. N.SUSEELA DEVI,
CO-OPERATIVE INSPECTOR, OFFICE OF THE
ASSISTANT REGISTRAR (GENERAL), CHERTHALA.**
- 3. THE CHERTHALA SERVICE CO-OPERATIVE
BANK LTD.NO.1688 (MORNING AND EVENING BRANCH),
CHERTHALA REPRESENTED BY ITS SECRETARY,
THE CHERTHALA CO-OPERATIVE BANK LTD.NO.1688,
CHERTHALA.**

**R3 BY ADV. SRI.C.H.CHANDRABHANU
GOVERNMENT PLEADER SRI. P.K.RAVIKRISHNAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C) NO: 6817/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PLAINT IN ARBITRATION CASE NO. 684/2004 FILED BEFORE THE R1 DT. 27/12/2004.

EXT.P2. COPY OF THE WRITTEN STATEMENT FILED BY THE R3 IN ARBITRATION CASE NO. 684/2004 DT. 23/6/04.

EXT.P3. COPY OF THE ORDER DT. 29/12/2004 BY THE R2.

RESPONDENT'S EXHIBITS NIL.

True copy

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THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.6817 OF 2005

Dated this the 16th day of November, 2007

JUDGMENT

The petitioner had a commercial transaction with the third respondent co-operative bank. According to him, he has paid off the entire amounts due under the transaction and that has been certified by the cashier and secretary of the third respondent. On such premise, he alleged that the salary certificates given in connection with the loan transaction have not been returned. He, accordingly, filed Ext.P1, invoking Section 69 of the Kerala Co-operative Societies Act, 1969 before the Assistant Registrar of Co-operative Societies, who, then could have dealt with the arbitration case. That has been dismissed by the impugned order by taking the view that the issue in hand is not a monetary issue and therefore, not to be decided by the authority before whom Ext.P1 was filed.

2. Learned counsel for the petitioner raised two fold contentions. Firstly he argued that the claim in Ext.P1 is for a

relief intricately connected with a loan transaction and is insegregable from the claims inter se on the basis of the terms of the loan transaction. Secondly, he pointed out, even assuming that the authority did not have jurisdiction, it was improper and impermissible to dismiss the application and that at the worst, it was a case which could have been rejected for proper presentation before the appropriate authority.

3. Per contra, learned counsel for the bank submits that the issue is only a non-monetary one because what is claimed is only the return of certain documents and that there is no claim made by the petitioner on any count of money against the bank. It is accordingly argued that the impugned order stands.

4. The transaction between the petitioner and the bank is admittedly a debtor-creditor relationship. The right of the petitioner for return of the documents, which he submitted in connection with a loan transaction, has necessarily a dependent question, as to whether he has discharged the entire liability under the loan. While it is the assertion of the petitioner that the

entire amount has been paid and it was so certified by the secretary of the society, it is the contention of the society that the loan amounts have not been completely paid off. Therefore, the dispute between the parties is as to whether the loan amount has been completely discharged by the petitioner. This essentially is a monetary issue and cannot be terms as non-monetary. Learned counsel for the petitioner is right in saying that the relief sought for, to wit, for return of the documents, viz., the salary certificates, is intricately connected with the transaction between the parties.

In the aforesaid circumstances this writ petition is allowed quashing the impugned order and directing the second respondent to take back Ext.P1 on file and transmit it, if necessary, with a change of law, to the competent arbitration court in terms of the KCS Act for further adjudication and disposal in accordance with law.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

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